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Testimony and In Support of the Package of Seclusion and Restraint bills  
Before the House Education Committee  
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Good morning, Mr. Chairman and esteemed members of the House Education Committee.

I am here today as a sister, mother, advocate, citizen and proud member of the Special Education Task Force. I want to take this moment to thank Lt. Governor Brian Calley for his leadership and unbending commitment to the education of our state's children with special needs. Further, I want to thank Representatives, Liberati, Price, Tedder, Heise and Greig for their sponsorship of the Restraint and Seclusion bills. I am here in full support of the Restraint-Seclusion Legislation, HBs 5409-5418.

I will start by saying that three years ago I met with Mr. Brad Thomas, a legislative aide to Congressman Jon Kline, Chair of the House Education-Workforce Committee. I met with Mr. Thomas in support of the Keeping All Students Safe Act. A federal attempt to eliminate restraint and seclusion in our nation's public schools. Mr. Thomas said, "This is not a federal issue. Talk with Michigan's Governor Snyder." I respectfully disagreed and responded, "Michigan children are America's children." Three years ago I had little reason to hope that I would see legislation anytime soon prohibiting restraint and seclusion. Three years later, watching Lt. Governor Calley take the helm and steering a new and brighter future for our children with disabilities and all children, I have never been more hopeful.

There is no research to support the use or the therapeutic or educational benefit of restraint and seclusion.

There is research to support that the use of seclusion can induce trauma and exacerbate behaviors in desperate need of "Positive Behavior Supports and Interventions."

"Seclusion and restraint are not treatment; they reflect treatment failure." — Charles Curie, former Pennsylvania Deputy Secretary for Mental Health and Substance Abuse (Pennsylvania Department of Public Welfare, 2001).

"As many reports have documented, the use of restraint and seclusion can, in some cases, have very serious consequences, including, most tragically, death." — United States Department of Education Restraint and Seclusion Resource Document 2 (2012).

"There is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques." — United States Department of Education (2012).

"Utilization of restraint or seclusion should be viewed as a treatment failure that exacerbates behavioral challenges and induces additional trauma. Recent research indicates that contrary to what was previously thought about these practices, there is very little evidence to indicate that seclusion and restraint practices hold therapeutic value." — Interagency Autism Coordinating Council, Letter to the Secretary of the Department of Health and Human Services, on Seclusion and Restraint, Sept. 7, 2011.

On January 25, 2016, President Barack Obama announced a long awaited executive action banning solitary confinement for juveniles and low-level offenders in federal prisons. He noted in a Washington Post op-ed that the ingrained use of the punishment technique of isolation was "increasingly overused" and could lead to "devastating, lasting psychological consequences."

Juveniles in our federal prisons can thankfully no longer be in solitary confinement, but our nation's school-age children, Michigan children, are still permitted to be secluded and isolated?

I am a non-attorney lay advocate and assist parents in districts across much of Michigan. Several months ago the federal Office for Civil Rights found a MI district in violation of a young elementary age student's civil rights pursuant to Section 504 and Title II of the Americans with Disabilities Act.

Why?

Simply and inexcusably because this child had been forced to "begin his school day in seclusion." A child entered a school building to start his school day and instead was placed in a secluded room and with no way out. He was in his own version of educational-purgatory and for a crime he did not commit. Teachers and administrators were then left to wonder why this child became so dysregulated. He was sent home so often that I told his parents he was on the "pick up plan." He was not formally suspended. He had no Positive Behavior Support Plan. He had no Multi-tier System of Supports, no Functional Behavioral Analysis. He had no evaluation to consider the adverse impact of his ADHD and Reactive-Attachment Disorder and need for special education programs and services. He was simply secluded anytime his ADHD got the better of him, and he struggled with inattention and impulse control. I met the family several months into the 2015-16 school year. I assisted the family with a federal civil rights complaint and request for a special education evaluation. Today, this child is no longer facing daily seclusion. He is receiving special education programs and services. He has a Positive Behavior Support Plan. His school district has been ordered to go through intensive training on Section 504 and positive behavioral supports and interventions.

This is not an isolated story. Two weeks ago a very young student injured the growth plate in her foot due to being restrained. This student is now wearing an orthopedic boot and may need surgery. This

student is currently restrained up to three times a day. This student has been struggling to self-regulate the entire school year and the elementary staff's only answer is to seclude, restrain and send home. The parents had to battle just to get the district to initiate a Functional Behavior Analysis and evaluation for special education programs and services. Even with a recognized diagnosis of ADHD and suspected Autism Spectrum Disorder, the parents had to beg for help. As recently as yesterday this youngster was restrained three times.

In 2011, I assisted a group of students in a Moderately Cognitively Impaired Program. We had pictures of a child with Down syndrome belted to a chair. This also went to the federal Office for Civil Rights. Last spring a MI district used "Therapand," a sensory intervention, to restrain a preschooler to a chair. In Oakland County, a center-based program for students considered to have severe emotional impairments has seclusion rooms that are cement walls. There is no padding. There is no carpet. There is cement. This in the year 2016.

While I assist children in all areas of special education eligibility, I have many students of all ages with an Autism Spectrum Disorder, the early onset of Bipolar Disorder, anxiety disorders, Reactive-Attachment Disorder and Fetal Alcohol Syndrome. These populations of children face restraint and seclusion at far greater numbers than their peers without a disability.

Last year, the Department of Education's Office of Civil Rights data collection reported that restraint and seclusion use is climbing in public schools. The use of restraint and seclusion is disproportionate: 75% of all incidents involve students with disabilities, and children of color with and without disabilities are twice as likely to be targeted compared to other students. Research tells us that restraint and seclusion serves no benefit. Further, it can be traumatic, dangerous and even deadly for children.

Restraint and seclusion are not in the best interests of our school-age children. A secluded and restrained child cannot learn. A secluded and restrained child, is not learning. Our federal special education law, the Individuals with Disabilities Education Act ("IDEA"), turned forty this past November. I saw little reason to celebrate as the outcomes for our children with IEPs are clearly not a reason for jubilation and pats on the back.

So when will we see dramatically improved educational outcomes and Post-Secondary outcomes for our children with special needs? Not until we are done trying to keep them emotionally, mentally and physically safe. Not until the fear of restraint and seclusion is gone. Not until Michigan public schools embrace Multi-tier Systems of Support and Positive Behavior Interventions and Supports. Michigan is nationally recognized as a leader in the area of Positive Behavior Interventions and Supports. It is time for Michigan to walk this talk and for this Committee to pass this package of Seclusion-Restraint bills.

Thank you,

Marcie Lipsitt